

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**DRUMMOND COAL SALES, INC.,**

**Plaintiff,**

**vs.**

**SEQUOIA ENERGY, LLC,**

**Defendant.**

**CIVIL ACTION NO.  
CV-08-HGD-1356-S**

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**PLAINTIFF’S MOTION FOR PARTIAL SUMMARY JUDGMENT ON  
THE ISSUE OF LIABILITY FOR BREACH OF CONTRACT**

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**COMES NOW** the Plaintiff, Drummond Coal Sales, Inc. (hereinafter “Drummond Coal Sales”), and pursuant to Federal Rule of Civil Procedure 56 hereby moves this Court to enter partial summary judgment in its favor and against Sequoia Energy, LLC (“Sequoia”) on the grounds that there is no genuine issue of material fact and that it is therefore entitled to judgment as a matter of law on the issue of Sequoia’s liability for breach of contract. The motion is supported by the following:

1. All pleadings heretofore filed;

2. A Memorandum of Law in Support of Plaintiff's Motion for Partial Summary Judgment, including a Narrative Statement of Undisputed Facts, filed contemporaneously herewith;

3. An Evidentiary Submission in Support of Plaintiff's Motion for Partial Summary Judgment filed contemporaneously herewith, including the following evidentiary materials:

(1) Exhibit A: December 28, 2007 Coal Supply Contract.

WHEREFORE, PREMISES CONSIDERED, Drummond Coal Sales respectfully requests this Honorable Court to enter an Order granting summary judgment in its favor and against Sequoia on the issue of Sequoia's liability for breach of contract.

Respectfully submitted,

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H. THOMAS WELLS, III

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Attorneys for Drummond Coal Sales, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on April 14, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Gilbert E. Johnston, Esquire  
James P. Pewitt, Esquire  
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Respectfully submitted,

/s/ H. Thomas Wells, III  
H. THOMAS WELLS, III